

territory adjacent thereto. Zones in addition to those to which a port of entry is entitled shall be authorized only if the Board finds that existing or authorized zones will not adequately serve the convenience of commerce.

(c) Preference to public corporations

In granting applications preference shall be given to public corporations.

(d) Ownership of harbor facilities by State

In case of any State in which harbor facilities of any port of entry are owned and controlled by the State and in which State harbor facilities of any other port of entry are owned and controlled by a municipality, the Board shall not grant an application by any public corporation for the establishment of any zone in such State, unless such application has been authorized by an Act of the legislature of such State (enacted after June 18, 1934).

(June 18, 1934, ch. 590, § 2, 48 Stat. 999.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 81i of this title.

§ 81c. Exemption from customs laws of merchandise brought into foreign trade zone

(a) Handling of merchandise in zone; shipment of foreign merchandise into customs territory; appraisal; reshipment to zone

Foreign and domestic merchandise of every description, except such as is prohibited by law, may, without being subject to the customs laws of the United States, except as otherwise provided in this chapter, be brought into a zone and may be stored, sold, exhibited, broken up, repacked, assembled, distributed, sorted, graded, cleaned, mixed with foreign or domestic merchandise, or otherwise manipulated, or be manufactured except as otherwise provided in this chapter, and be exported, destroyed, or sent into customs territory of the United States therefrom, in the original package or otherwise; but when foreign merchandise is so sent from a zone into customs territory of the United States it shall be subject to the laws and regulations of the United States affecting imported merchandise: *Provided*, That whenever the privilege shall be requested and there has been no manipulation or manufacture effecting a change in tariff classification, the appropriate customs officer shall take under supervision any lot or part of a lot of foreign merchandise in a zone, cause it to be appraised and taxes determined and duties liquidated thereon. Merchandise so taken under supervision may be stored, manipulated, or manufactured under the supervision and regulations prescribed by the Secretary of the Treasury, and whether mixed or manufactured with domestic merchandise or not may, under regulations prescribed by the Secretary of the Treasury, be exported or destroyed, or may be sent into customs territory upon the payment of such liquidated duties and determined taxes thereon. If merchandise so taken under supervision has been manipulated or manufactured, such duties and taxes shall be payable on the quantity of such foreign merchandise used in the manipulation or manufacture of the entered article. Allowance shall be made for recoverable

and irrecoverable waste; and if recoverable waste is sent into customs territory, it shall be dutiable and taxable in its condition and quantity and at its weight at the time of entry. Where two or more products result from the manipulation or manufacture of merchandise in a zone the liquidated duties and determined taxes shall be distributed to the several products in accordance with their relative value at the time of separation with due allowance for waste as provided for above: *Provided further*, That subject to such regulations respecting identity and the safeguarding of the revenue as the Secretary of the Treasury may deem necessary, articles, the growth, product, or manufacture of the United States, on which all internal-revenue taxes have been paid, if subject thereto, and articles previously imported on which duty and/or tax has been paid, or which have been admitted free of duty and tax, may be taken into a zone from the customs territory of the United States, placed under the supervision of the appropriate customs officer, and whether or not they have been combined with or made part, while in such zone, of other articles, may be brought back thereto free of quotas, duty, or tax: *Provided further*, That if in the opinion of the Secretary of the Treasury their identity has been lost, such articles not entitled to free entry by reason of noncompliance with the requirements made hereunder by the Secretary of the Treasury shall be treated when they reenter customs territory of the United States as foreign merchandise under the provisions of the tariff and internal-revenue laws in force at that time: *Provided further*, That under the rules and regulations of the controlling Federal agencies, articles which have been taken into a zone from customs territory for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage shall be considered to be exported for the purpose of—

(1) the draw-back, warehousing, and bonding, or any other provisions of the Tariff Act of 1930, as amended, and the regulations thereunder; and

(2) the statutes and bonds exacted for the payment of draw-back, refund, or exemption from liability for internal-revenue taxes and for the purposes of the internal-revenue laws generally and the regulations thereunder.

Such a transfer may also be considered an exportation for the purposes of other Federal laws insofar as Federal agencies charged with the enforcement of those laws deem it advisable. Such articles may not be returned to customs territory for domestic consumption except where the Foreign-Trade Zones Board deems such return to be in the public interest, in which event the articles shall be subject to the provisions of paragraph 1615(f) of section 1201 of this title: *Provided further*, That no operation involving any foreign or domestic merchandise brought into a zone which operation would be subject to any provision or provisions of section 1807, chapter 15, chapter 16, chapter 17, chapter 21, chapter 23, chapter 24, chapter 25, chapter 26, or chapter 32 of the Internal Revenue Code if performed in customs territory, or involving the manufacture of any article provided for in paragraphs 367 or

368 of section 1001 of this title, shall be permitted in a zone except those operations (other than rectification of distilled spirits and wines, or the manufacture or production of alcoholic products unfit for beverage purposes) which were permissible under this chapter prior to July 1, 1949: *Provided further*, That articles produced or manufactured in a zone and exported therefrom shall on subsequent importation into the customs territory of the United States be subject to the import laws applicable to like articles manufactured in a foreign country, except that articles produced or manufactured in a zone exclusively with the use of domestic merchandise, the identity of which has been maintained in accordance with the second proviso of this section may, on such importation, be entered as American goods returned: *Provided, further*, That no merchandise that consists of goods subject to NAFTA drawback, as defined in section 3333(a) of this title, that is manufactured or otherwise changed in condition shall be exported to a NAFTA country, as defined in section 3301(4) of this title, without an assessment of a duty on the merchandise in its condition and quantity, and at its weight, at the time of its exportation (or if the privilege in the first proviso to this subsection was requested, an assessment of a duty on the merchandise in its condition and quantity, and at its weight, at the time of its admission into the zone) and the payment of the assessed duty before the 61st day after the date of exportation of the article, except that upon the presentation, before such 61st day, of satisfactory evidence of the amount of any customs duties paid or owed to the NAFTA country on the article, the customs duty may be waived or reduced (subject to section 508(b)(2)(B) of the Tariff Act of 1930 [19 U.S.C. 1508(b)(2)(B)]) in an amount that does not exceed the lesser of (1) the total amount of customs duties paid or owed on the merchandise on importation into the United States, or (2) the total amount of customs duties paid on the article to the NAFTA country: *Provided, further*, That, if Canada ceases to be a NAFTA country and the suspension of the operation of the United States-Canada Free-Trade Agreement thereafter terminates, with the exception of drawback eligible goods under section 204(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, no article manufactured or otherwise changed in condition (except a change by cleaning, testing or re-packing) shall be exported to Canada during the period such Agreement is in operation without the payment of a duty that shall be payable on the article in its condition and quantity, and at its weight, at the time of its exportation to Canada unless the privilege in the first proviso to this subsection was requested..¹

(b) Applicability to bicycle component parts

The exemption from the customs laws of the United States provided under subsection (a) of this section shall not be available on or before December 31, 1992, to bicycle component parts unless such parts are reexported from the United States, whether in the original package, as components of a completely assembled bicycle, or otherwise.

¹ So in original.

(c) Articles manufactured or produced from denatured distilled spirits withdrawn free of tax from distilled spirits plant; products unfit for beverage purposes

(1) Notwithstanding the provisions of the fifth proviso of subsection (a) of this section, any article (within the meaning of section 5002(a)(14) of title 26) may be manufactured or produced from denatured distilled spirits which have been withdrawn free of tax from a distilled spirits plant (within the meaning of section 5002(a)(1) of title 26), and articles thereof, in a zone.

(2) Notwithstanding the provisions of the fifth proviso of subsection (a) of this section, distilled spirits which have been removed from a distilled spirits plant (as defined in section 5002(a)(1) of title 26) upon payment or determination of tax may be used in the manufacture or production of medicines, medicinal preparation, food products, flavors, or flavoring extracts, which are unfit for beverage purposes, in a zone. Such products will be eligible for drawback under the internal revenue laws under the same conditions applicable to similar manufacturing or production operations occurring in customs territory.

(d) Foreign trade zones

In regard to the calculation of relative values in the operations of petroleum refineries in a foreign trade zone, the time of separation is defined as the entire manufacturing period. The price of products required for computing relative values shall be the average per unit value of each product for the manufacturing period. Definition and attribution of products to feedstocks for petroleum manufacturing may be either in accordance with Industry Standards of Potential Production on a Practical Operating Basis as verified and adopted by the Secretary of the Treasury (known as producibility) or such other inventory control method as approved by the Secretary of the Treasury that protects the revenue.

(e) Production equipment

(1) In general

Notwithstanding any other provision of law, if all applicable customs laws are complied with (except as otherwise provided in this subsection), merchandise which is admitted into a foreign trade zone for use within such zone as production equipment or as parts for such equipment, shall not be subject to duty until such merchandise is completely assembled, installed, tested, and used in the production for which it was admitted.

(2) Admission procedures

The person who admits the merchandise described in paragraph (1) into the zone shall, at the time of such admission, certify to the Customs Service that the merchandise is admitted into the zone pursuant to this subsection for use within the zone as production equipment or as parts for such equipment and that the merchandise will be entered and estimated duties deposited when use of the merchandise in production begins.

(3) Entry procedures

At the time use of the merchandise in production begins, the merchandise shall be en-

tered, as provided for in section 484 of the Tariff Act of 1930 [19 U.S.C. 1484], and estimated duties shall be deposited with the Customs Service. The merchandise shall be subject to tariff classification according to its character, condition, and quantity, and at the rate of duty applicable, at the time use of the merchandise in production begins.

(4) Foreign trade zone

For purposes of this subsection, the term “foreign trade zone” includes a subzone.

(June 18, 1934, ch. 590, § 3, 48 Stat. 999; June 17, 1950, ch. 296, § 1, 64 Stat. 246; Pub. L. 91-271, title III, § 309, June 2, 1970, 84 Stat. 292; Pub. L. 98-573, title II, § 231(a)(2), Oct. 30, 1984, 98 Stat. 2990; Pub. L. 99-514, title XVIII, § 1894, Oct. 22, 1986, 100 Stat. 2931; Pub. L. 100-418, title I, § 1783(f), Aug. 23, 1988, 102 Stat. 1300; Pub. L. 100-449, title II, § 204(c)(5), Sept. 28, 1988, 102 Stat. 1863; Pub. L. 100-647, title IX, § 9002, Nov. 10, 1988, 102 Stat. 3808; Pub. L. 101-382, title III, §§ 481, 484F, Aug. 20, 1990, 104 Stat. 706, 710; Pub. L. 103-182, title II, § 203(b)(5), Dec. 8, 1993, 107 Stat. 2091; Pub. L. 104-295, § 31(a), Oct. 11, 1996, 110 Stat. 3536.)

REFERENCES IN TEXT

The customs laws, referred to in text, are classified generally to this title.

The Tariff Act of 1930, as amended, referred to in subsec. (a)(1), is act June 17, 1930, ch. 497, 46 Stat. 590, as amended, which is classified generally to chapter 4 (§1202 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

Sections 1001 and 1201 of this title, referred to in subsec. (a), which comprised the dutiable and free lists for articles imported into the United States, were repealed by Pub. L. 87-456, title I, § 101(a), May 24, 1962, 76 Stat. 72, which act also revised the Tariff Schedules of the United States. The Tariff Schedules of the United States were replaced by the Harmonized Tariff Schedule of the United States which is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

References in subsec. (a) to section and chapters of the Internal Revenue Code are references to section and chapters of the Internal Revenue Code, 1939, which was repealed by section 7851 of Title 26, I.R.C. 1954. The Internal Revenue Code of 1954 was redesignated the Internal Revenue Code of 1986 by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095. Corresponding sections of I.R.C. 1986 to section and chapters of I.R.C. 1939 referred to in the text are set out below. For provision deeming a reference in other laws to a provision of I.R.C. 1939, also as a reference to corresponding provision of I.R.C. 1986, see section 7852(b) of Title 26, I.R.C. 1986.

<i>I.R.C. 1939</i>	<i>I.R.C. 1986</i>
§ 1807	Omitted
Chapter 15	§ 5701 et seq.
Chapter 16	§ 4591 et seq., § 4811 et seq.
Chapter 17	§ 4831 et seq.
Chapter 21	Omitted
Chapter 23	§ 4701 et seq.
Chapter 24	§ 4801 et seq.
Chapter 25	§§ 4181, 4182, and 5811 et seq.
Chapter 26	§ 5001 et seq.
Chapter 32	§ 4501 et seq.

Section 204 of the United States-Canada Free-Trade Agreement Implementation Act of 1988, referred to in subsec. (a), is section 204 of Pub. L. 100-449, which is set out in a note under section 2112 of this title.

The internal revenue laws, referred to in subsec. (c)(2), are classified generally to Title 26, Internal Revenue Code.

AMENDMENTS

1996—Subsec. (e). Pub. L. 104-295 added subsec. (e).

1993—Subsec. (a). Pub. L. 103-182, in provisions following par. (2), inserted second proviso relating to goods subject to NAFTA drawback, and in last proviso inserted “, if Canada ceases to be a NAFTA country and the suspension of the operation of the United States-Canada Free-Trade Agreement thereafter terminates,” after “That” and substituted “during the period such Agreement is in operation” for “on or after January 1, 1994, or such later date as may be proclaimed by the President under section 204(b)(2)(B) of such Act of 1988.”

1990—Subsec. (b). Pub. L. 101-382, § 481, substituted “on or before December 31, 1992” for “before January 1, 1991”.

Subsec. (c). Pub. L. 101-382, § 484F, designated existing provisions as par. (1), struck out “domestic” before “denatured distilled”, inserted provisions relating to withdrawal free of tax from a distilled spirits plant, and added par. (2).

1988—Subsec. (a). Pub. L. 100-449 inserted provision directing that, “with the exception of drawback eligible goods under section 204(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, no article manufactured or otherwise changed in condition (except a change by cleaning, testing or repacking) shall be exported to Canada on or after January 1, 1994, or such later date as may be proclaimed by the President under section 204(b)(2)(B) of such Act of 1988, without the payment of a duty that shall be payable on the article in its condition and quantity, and at its weight, at the time of its exportation to Canada unless the privilege in the first proviso to this subsection was requested.”

Subsec. (b). Pub. L. 100-418 substituted “January 1, 1991” for “June 30, 1986”.

Subsec. (d). Pub. L. 100-647 added subsec. (d).

1986—Subsec. (c). Pub. L. 99-514 added subsec. (c).

1984—Subsec. (a). Pub. L. 98-573 designated existing provisions as subsec. (a), redesignated former pars. (a) and (b) as pars. (1) and (2), respectively, of subsec. (a), and added subsec. (b).

1970—Pub. L. 91-271 substituted references to the appropriate customs officers for references to the collector of customs wherever appearing.

1950—Act June 17, 1950, amended section generally to remove the prohibition against, and to authorize specifically, manufacture and exhibition within a zone.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 31(b) of Pub. L. 104-295 provided that: “The amendment made by this section [amending this section] shall apply with respect to merchandise admitted into a foreign trade zone after the date that is 15 days after the date of the enactment of this Act [Oct. 11, 1996].”

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-182 applicable (1) with respect to exports from the United States to Canada on Jan. 1, 1996, if Canada is a NAFTA country on that date and after such date for so long as Canada continues to be a NAFTA country and (2) with respect to exports from the United States to Mexico on Jan. 1, 2001, if Mexico is a NAFTA country on that date and after such date for so long as Mexico continues to be a NAFTA country, see section 213(c) of Pub. L. 103-182, set out as an Effective Date note under section 3331 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 485(a) of title III (§§ 301-485) of Pub. L. 101-382 provided that: “Except as otherwise provided in this title, the amendments made by this title [amending this section and sections 1309, 1313, 1466, and 1553 of this title and enacting provisions set out as notes under sections 1309, 1466, and 1553 of this title], shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after October 1, 1990.”

EFFECTIVE AND TERMINATION DATES OF 1988
AMENDMENTS

Amendment by Pub. L. 100-449 effective on date the United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100-449, set out in a note under section 2112 of this title.

Amendment by section 1783(f) of Pub. L. 100-418 applicable with respect to articles entered or withdrawn from warehouse for consumption, after Sept. 30, 1988, pursuant to section 1831(a) of Pub. L. 100-418.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 231(a)(3) of Pub. L. 98-573 provided that: "The amendments made by paragraph (2) [amending this section] shall take effect on the fifteenth day after the date of the enactment of this Act [Oct. 30, 1984]."

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-271 effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after Oct. 1, 1970, and such other articles entered or withdrawn from warehouse for consumption prior to such date, or with respect to which a protest has not been disallowed in whole or in part before Oct. 1, 1970, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise in Bureau of Customs of Department of the Treasury to which appointments were required to be made by President with advice and consent of Senate ordered abolished with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1 of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out as a note under section 1 of this title. All functions of offices eliminated were already vested in Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees.

FLOOR STOCKS TAX TREATMENT OF ARTICLES IN
FOREIGN TRADE ZONES

Notwithstanding this chapter, articles located in a foreign trade zone on the effective date of increases in tax under specific amendments by Pub. L. 101-508 subject to floor stocks taxes under certain circumstances, see section 11218 of Pub. L. 101-508, set out as a note under section 5001 of Title 26, Internal Revenue Code.

PLAN AMENDMENTS NOT REQUIRED UNTIL
JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101-1147 and 1171-1177] or title XVIII [§§ 1801-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of Title 26, Internal Revenue Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 58c, 1508 of this title; title 26 sections 5003, 5214.

§ 81d. Customs officers and guards

The Secretary of the Treasury shall assign to the zone the necessary customs officers and guards to protect the revenue and to provide for the admission of foreign merchandise into customs territory.

(June 18, 1934, ch. 590, § 4, 48 Stat. 1000.)

TRANSFER OF FUNCTIONS

Functions of all officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees.

§ 81e. Vessels entering or leaving zone; coastwise trade

Vessels entering or leaving a zone shall be subject to the operation of all the laws of the United States, except as otherwise provided in this chapter, and vessels leaving a zone and arriving in customs territory of the United States shall be subject to such regulations to protect the revenue as may be prescribed by the Secretary of the Treasury. Nothing in this chapter shall be construed in any manner so as to permit vessels under foreign flags to carry goods or merchandise shipped from one foreign trade zone to another zone or port in the protected coastwise trade of the United States.

(June 18, 1934, ch. 590, § 5, 48 Stat. 1000.)

§ 81f. Application for establishment and expansion of zone**(a) Application for establishment; requirements**

Each application shall state in detail—

(1) The location and qualifications of the area in which it is proposed to establish a zone, showing (A) the land and water or land or water area or land area alone if the application is for its establishment in or adjacent to an interior port; (B) the means of segregation from customs territory; (C) the fitness of the area for a zone; and (D) the possibilities of expansion of the zone area;

(2) The facilities and appurtenances which it is proposed to provide and the preliminary plans and estimate of the cost thereof, and the existing facilities and appurtenances which it is proposed to utilize;

(3) The time within which the applicant proposes to commence and complete the construction of the zone and facilities and appurtenances;

(4) The methods proposed to finance the undertaking;

(5) Such other information as the Board may require.

(b) Amendment of application; expansion of zone

The Board may upon its own initiative or upon request permit the amendment of the application. Any expansion of the area of an established zone shall be made and approved in the same manner as an original application.

(June 18, 1934, ch. 590, § 6, 48 Stat. 1000.)

§ 81g. Granting of application

If the Board finds that the proposed plans and location are suitable for the accomplishment of the purpose of a foreign trade zone under this chapter, and that the facilities and appurtenances which it is proposed to provide are sufficient it shall make the grant.